

**Functional Series 300: ACQUISITION & ASSISTANCE**  
**ADS Chapter 304 - CHOICE OF IMPLEMENTATION INSTRUMENT**

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## ADS Chapter 304 - CHOICE OF IMPLEMENTATION INSTRUMENT

### 304.1 Authority

1. [Foreign Assistance Act of 1961, as amended, Sections 621 and 635\(b\).](#)
2. Federal Grant and Cooperative Agreement Act of 1977 (PL 95-224)(31 USC 6301-8).
3. OMB Guidance, "Implementation of Federal Grant and Cooperative Agreement Act of 1977, 8/18/78."

### 304.2 Objective

To establish the criteria for selecting and using the Agency's assistance and acquisition instruments which implement the Agency's programs by establishing appropriate relationships with non-Federal parties, such as hospitals, other non-profit organizations, and commercial organizations.

### 304.3 Responsibility

1. Strategic Objective Team: The Strategic Objective Team is responsible for determining the purpose of the transaction and the intended nature of the relationship.
2. Contracting Officers in USAID/W and the overseas Missions are responsible for:
  - a. Approving the selection of the proper [implementation instrument](#); and
  - b. Soliciting offers and making award to the non-Federal party.
3. The Bureau for Management, Office of Procurement, Policy Division (M/OP/POL) is responsible for developing and interpreting Agency policy for both acquisition and assistance types of implementation instruments.
4. [Procurement Executive/Assistance Executive](#) is responsible for:
  - a. Making the final determination of choice of instrument when there is a disagreement between the contracting activity and the strategic objective team; and
  - b. Issuing Agency policy for both acquisition and assistance types of implementation instruments.

**304.4 Definitions (See [ADS GLOSSARY](#))**

AGREEMENT OFFICER/CONTRACTING OFFICER  
ASSISTANCE EXECUTIVE  
CONTRACT  
COOPERATIVE AGREEMENT  
GRANT  
IMPLEMENTATION INSTRUMENT  
PROCUREMENT EXECUTIVE  
RECIPIENT  
STRATEGIC OBJECTIVE TEAM

**304.5 POLICY**

The following are the official Agency policies and corresponding essential procedures:

**304.5.1 SELECTION OF IMPLEMENTATION INSTRUMENTS**

The following criteria shall be used to determine whether a [contract](#) , [grant](#) or [cooperative agreement](#) is the appropriate instrument for a USAID-direct award.

a) CONTRACT

\*

A Contract shall be used when the principal purpose of the instrument is the acquisition, by purchase, lease, or barter of property or services for the direct benefit or use of USAID or any other Federal Government entity; but also see 304.5.3.

b) COOPERATIVE AGREEMENT

A Cooperative Agreement shall be used when:

1. The principal purpose of the relationship is the transfer of money, property, services or anything of value to the [recipient](#) in order to accomplish a public purpose of support or stimulation authorized by Federal statute; and

2. Substantial involvement is anticipated between USAID and the recipient during the performance of the proposed activity.

c) GRANT

A Grant shall be used when:

1. The principal purpose of the relationship is the transfer of money, property, services, or anything of value to the recipient in order to accomplish a public purpose of support or stimulation authorized by Federal statute;
2. The recipient is to have substantial freedom to pursue its stated program; and
3. Substantial involvement is not anticipated between USAID and the recipient during the performance of the proposed activity.

#### **E304.5.1 Selection of Implementation Instruments**

When there is a disagreement between the contracting activity and the [strategic objective team](#) on whether the criteria in 304.5.1 indicate that a contract, grant, or a cooperative agreement shall be utilized to implement a particular USAID program requirement, the Procurement Executive/Assistance Executive shall make the final determination of the choice of implementation instrument to be used.

#### **304.5.2 PROHIBITION ON USE OF ASSISTANCE INSTRUMENTS**

Assistance instruments (grants and cooperative agreements) shall not be used to provide for the performance of activities or programs over which USAID foresees a need to exercise a substantial degree of operational control. Nor shall assistance instruments be used to discharge responsibilities of the U.S. Government under international agreements because USAID lacks the ability as a grantor to enforce performance by a recipient.

#### **E304.5.2 Prohibition on Use of Assistance Instruments - N/A**

#### **304.5.3 EXCEPTION TO POLICY**

USAID has a legal right to use a contract in lieu of an assistance instrument, regardless of the selection criteria in 304.5.1.

#### **E304.5.3 Exception to Policy**

See E304.5.1.

**304.6**            **Supplementary Reference - N/A**

**\*304.7**            **Mandatory Reference**

**\***                    **[Series 300 Interim Update #17, "Choosing Between Acquisition and Assistance Instruments"](#)**

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